

# **EXHIBIT 4**

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

|                                  |   |                               |
|----------------------------------|---|-------------------------------|
| IN RE PHARMACEUTICAL INDUSTRY    | ) |                               |
| AVERAGE WHOLESALE PRICE          | ) | MDL NO. 1456                  |
| LITIGATION                       | ) | Civil Action No. 01-12257-PBS |
| <hr/>                            |   |                               |
| THIS DOCUMENT RELATES TO:        | ) |                               |
| <hr/>                            |   |                               |
| International Union of Operating | ) |                               |
| Engineers, Local No. 68 Welfare  | ) |                               |
| Fund v. AstraZeneca PLC et al.   | ) |                               |
| Civil Action No. 04-11503-PBS    | ) |                               |
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**AFFIDAVIT OF TERRY K. SHERMAN**

STATE OF OHIO )  
                  ) ss.:  
COUNTY OF FRANKLIN )

TERRY K. SHERMAN, being duly sworn, deposes and says:

1. I am an attorney licensed to practice in the State of Ohio.
2. Prior to and during July 2003, I represented Dr. Robert A. Berkman as a defendant in a criminal case in United States District Court, District of Delaware. During July 2003, I assisted in the representation and acted on behalf of Dr. Berkman in the above-captioned action (the "New Jersey Action").
3. On or several days prior to July 9, 2003, I had a telephone conversation with Donald E. Haviland, Jr., counsel for plaintiffs in the New Jersey Action. Mr. Haviland asked if I would accept service of the summons and complaint in the New Jersey Action on behalf of Dr. Berkman. I told Mr.

Haviland that I would not accept service on behalf of Dr. Berkman. I never accepted service of the summons and complaint in the New Jersey Action on behalf of Dr. Berkman.

4. Also during this telephone conversation, Mr. Haviland informed me that plaintiffs were not interested in Dr. Berkman as a defendant in the New Jersey Action, but instead as a fact witness. He told me that the action had been filed in New Jersey state court and that plaintiffs were interested in keeping the case in state court. Mr. Haviland suggested that it would be in Dr. Berkman's best interest for the case to remain in state court in New Jersey.
5. On July 8, 2003, Mr. Haviland sent to me (and the other counsel for the doctor defendants in the New Jersey Action) via facsimile a letter that, among other things, suggested that I send a letter to the clerk of the United States District Court, District of New Jersey, which informed the court that Dr. Berkman did not consent to federal jurisdiction. (Letter attached as Exhibit A.) Mr. Haviland's letter included proposed language that I should use in drafting and sending such a letter to the court.
6. On July 9, 2003, I sent to the clerk of the United States District Court in New Jersey a letter, based on the language proposed by Mr. Haviland, that informed the court that Dr. Berkman did not consent to federal jurisdiction in the New Jersey Action and desired that the action proceed in New Jersey state court, Monmouth County. (Letter attached as Exhibit B.)

7. At some point towards the end of July 2003, I ceased assisting in the representation of Dr. Berkman in the above-captioned action.

  
Terry K. Sherman

Sworn to before me this  
27<sup>th</sup> day of September, 2005.

Kathleen M. Smith  
Notary Public

**NOTARY PUBLIC, STATE OF OHIO**